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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/736,937	12/14/2000	Duane D. Blatter	13861.21.2	1535

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EXAMINER

MENDOZA, MICHAEL G

ART UNIT PAPER NUMBER

3731

DATE MAILED: 11/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/736,937

Applicant(s)

BLATTER ET AL.

Examiner

Michael G. Mendoza

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) 8, 14, 17, 28 and 37 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 29-36, 40-45 and 52-57 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 6, 7, 10, 12, 13, 16, 18, 19, 24, 26, 27, 38, 39, 46 and 48-51 is/are rejected.
- 7) ☒ Claim(s) 3-5, 11, 15, 20-23, 25 and 47 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1, 2, 6, 12, 13, 16, 40-42 and 57 have been considered but are moot in view of the new ground(s) of rejection.
2. The indicated allowability of claims 18-27, 38, 39, and 46-51 is withdrawn in view of the newly discovered reference(s) to Daniel. Rejections based on the newly cited reference(s) follow.

### ***Claim Objections***

3. Claim 9 objected to because of the following informalities: Claim 9 is dependent on withdrawn Claim 8. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

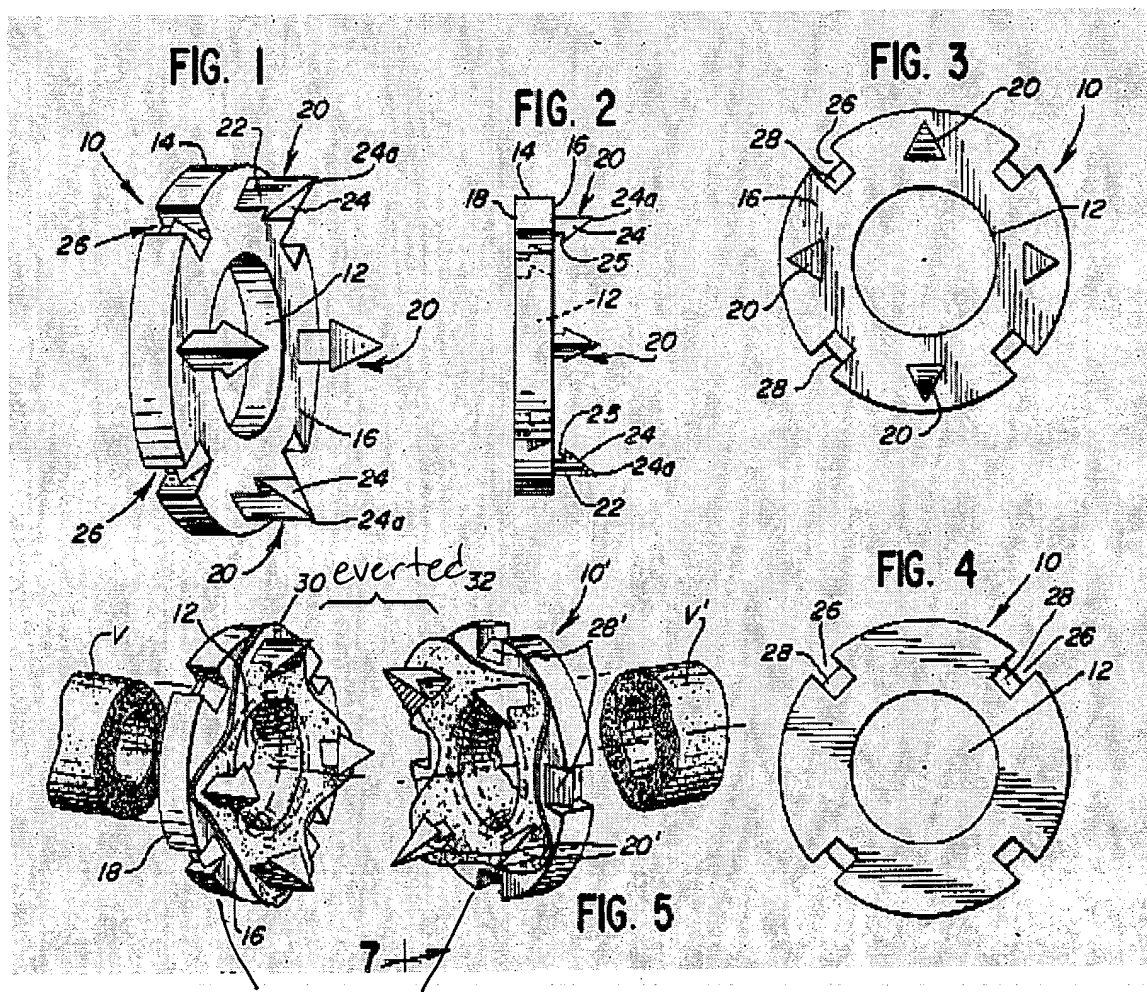
5. Claims 1, 2, 6, 7, 10, 12, 13, 16, 18, 19, 24, 26, 27, 38, 39, 46, and 48-51 are rejected under 35 U.S.C. 102(b) as being anticipated by Daniel 4523592.
6. Daniel teaches a compression plate anastomosis apparatus and method for anastomosing a first vessel and a second vessel together, comprising: a first compression plate having a first compression plate opening; wherein the first compression plate opening has a perimeter defined by first holding means for holding a portion of the first vessel that defines a first vessel opening, wherein the first

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compression plate is shaped to engage the first vessel portion to extend through the first compression plate opening in a manner such that the first vessel opening conforms to the perimeter of the first compression plate opening, and wherein the first holding means is adapted to hold the first vessel portion in a manner such that the first vessel portion is at least partially everted; and a second compression plate having a second compression plate opening; wherein the second compression plate opening is defined by second holding means for holding a portion of a second vessel that defines a second vessel opening, wherein the first compression plate and the second compression plate have means for locking the compression plates together, and wherein the first holding means is shaped to hold the first vessel portion in a configuration such that when the first vessel portion and the second vessel portion are anastomosed together there is an uneven distribution of force against the first vessel portion around the first vessel opening caused by the shape of the first holding mean; wherein the first and second compression plates are snap-fit compression plates that are configured such that the locking means snap into place when the compression plates are brought together; wherein the second holding means is a holding surface located around the second compression plate opening with a configuration such that the portion of the second vessel defining the second vessel opening may be everted onto the holding surface; wherein the holding surface extends radially downward at an angle from the second compression plate opening; wherein the first holding means comprises a first plurality of holding tabs and wherein the second holding means comprises a second plurality of holding tabs; wherein the first holding means are in a mating configuration with respect

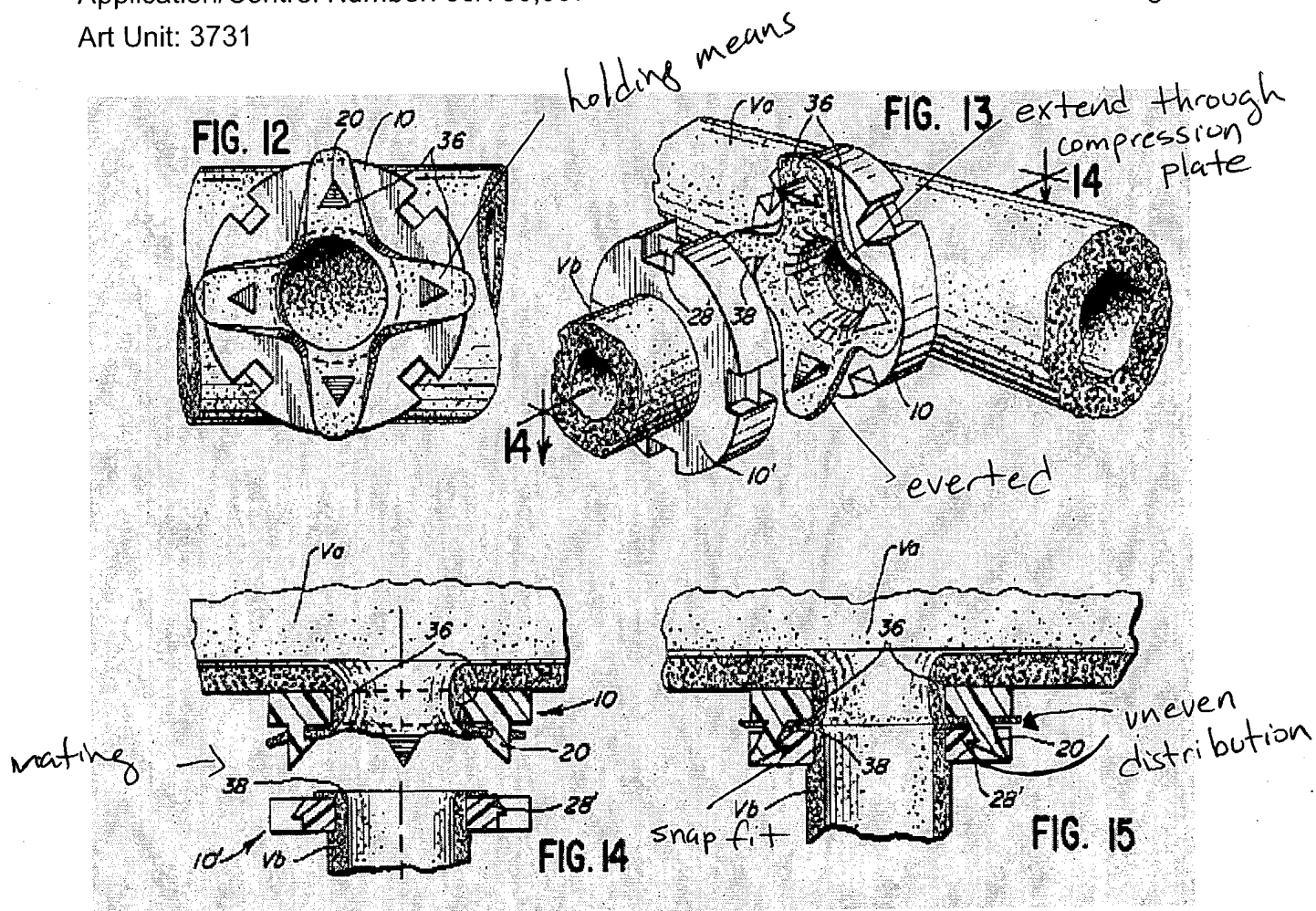
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to the second holding means once the second vessel is brought into contact with the first vessel for anastomosis; wherein the second holding means is adapted to hold the portion of the second vessel that defines the second vessel opening in a manner such that the portion defining the second vessel opening is at least partially everted; and wherein the first compression plate and the second compression plate are adapted for use with vessel openings that are generally circular.



first & second  
holding means  
(tabs)

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### Allowable Subject Matter

7. Claims 29-36, 40-45, and 52-57 are allowable over the prior art of record.
8. Claims 3-5, 11, 15, 20-23, 25, and 47 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
9. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to teach or render obvious the overall claimed invention of a snap-fit compression plate anastomosis apparatus for anastomosing vessels, comprising: a first compression plate has an outer periphery form which a plurality of locking arms extend, wherein the locking arms are adapted to lock with a

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locking extension projection from a second compression plate that enables the compression plates to lock together.

### **Contacts**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael G. Mendoza whose telephone number is (571) 272-4698. The examiner can normally be reached on Mon.-Fri. 8:00 a.m. - 5:00 p.m..


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dawson can be reached on (571) 272-4694. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MM

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PRIMARY EXAMINER